

**REMARKS**

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

Claims 1-10 were pending in this application. In this response, claims 1, 6 and 10 have been amended and claims 11-1 added. Thus, claims 1-12 remain pending.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: the original claims and the specification, figures 9-12.

***ALLOWABLE SUBJECT MATTER***

Applicants appreciate the indication that claims 6-8 and 10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Presently, Applicants have written both of these claims in independent form, thus claims 6-8 and 10 are allowable.

***REJECTIONS UNDER 35 U.S.C. § 102***

Claims 1-5 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,911,370 to Lusty (hereafter "Lusty") for the reasons presented at page 2 of the Official Action. This rejection is respectfully traversed.

To anticipate a claim, the reference must teach all of the elements of the claim. See MPEP § 2131. Claim 1, the only independent claim at issue here, recites that an end of the second section contacts an end of the first wall portion and the second section is oriented in a radial direction.

The Examiner's annotation of the designation of identified features in *Lusty* is appreciated. However, the device in *Lusty* does not meet the claimed features. In contrast to the present claim 1, the disclosure in *Lusty* places the tip assembly 1, identified by the Examiner as the first wall portion, and the mounting 15, identified by the Examiner as the second section, in a parallel relationship. In view of the tangential orientation of at least the part of tip assembly 1 in *Lusty* contacting the mounting 15, *Lusty* must then also disclose the mounting tip 15 as tangential. However, the claimed second section is oriented radially, an orientation clearly not disclosed by the tangential arrangement in *Lusty*.

In light of at least this difference, Applicants respectfully submit that an anticipatory rejection is improper since *Lusty* does not disclose the invention as claimed.

In addition, the rejection of claims 4 and 5 are respectfully traversed. The claims call for an angle of approximately 75-100° (claim 4) or of approximately 86-94° (claim 5) for the second angle. This second angle is between the second section and the first wall portion. However, the annotated figure in the Official Action appears to measure this angle from a section of the tip assembly 1 that is not associated with the first wall portion that is substantially tangential as claimed in claim 1. Thus, the angle as indicated is almost 180° and is clearly much greater than even the claimed approximately 100°.

For at least the above reasons, the rejection of claims 1-5 and 9 should be reconsidered and withdrawn.

#### ***REJECTIONS UNDER 35 U.S.C. § 103***

Claims 2-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lusty* for the reasons presented at page 4 of the Official Action. This rejection is also traversed.

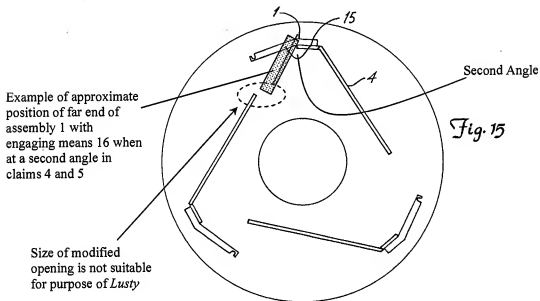
First, to the extent the rejection is under § 103(b), Applicants respectfully note that to establish a prima facie case of obviousness, all of the features of the claims must be rejected based on the prior art references or proper combinations and/or modifications. See, In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974), KSR International Co. v. Teleflex Inc. et al., 127 S. Ct. 1727 (2007) and page 57528 of the Federal Register, Vol. 72, No. 195 of Wednesday, October 10, 2007, where it states “The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” However, at least the claimed feature from claim 1 of an end of the second section contacting an end of the first wall portion and the second section being oriented in a radial direction is completely missing from the reference and from the rejection. Because at least this claimed feature is lacking from the rejection, a prima facie case of obviousness has not been established. Accordingly, withdrawal of the rejection is appropriate.

Further, it is respectfully asserted that with respect to the claimed angle of the second angle and the disclosure in *Lusty*, one of ordinary skill in the art would not have modified the angle in *Lusty* to meet the claimed feature because to do so would render the device in *Lusty* unsuitable for its intended purpose. The MPEP notes that a combination of references resulting in a prior art reference being unsatisfactory for its intended purpose is improper. See, MPEP § 2143.01.

Here, if one were to modify the designated angle to be within the claimed limit, the far end of the tip assembly 1 with the engaging means 16 would almost be oriented in line with the bed support 4 of the next assembly on the lower or upper member 2 of the rotor. In fact, a 90° orientation would bring the far end of the tip assembly 1 with the engaging means 16 well within the next assembly such that material may not even pass through the opening as the rotor turns or

the orientation with an adjacent assembly 1 would effectively prevent or at least greatly restrict the flow of material through the opening, thus preventing proper operation of the *Lusty* device.

See annotation below:



Such a modification is contrary to a proper modification for purposes of obviousness (Because, the proposed modification or combination of the prior art would change the principle of operation of prior art being modified, then the teachings of the reference are insufficient to render the claims *prima facie* obvious. See, MPEP § 2143.01).

Accordingly and based on the above arguments, Applicants respectfully request the withdrawal of this rejection

### CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the

undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

DRINKER, BIDDLE & REATH LLP

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By: 

Jeffrey G. Kilian  
Reg. No. 50,891

**CUSTOMER NO. 055694**

**DRINKER, BIDDLE & REATH LLP**

1500 K Street, N.W., Suite 1100

Washington, D.C. 20005-1209

Tel: (202) 842-8800

F: (202) 842-8465